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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,424	08/28/2003	Megan A. Fannon	107044-0031	7242
24267	7590	08/31/2006	EXAMINER	
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			ECHELMeyer, ALIX ELIZABETH	
			ART UNIT	PAPER NUMBER

1745

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/650,424

Applicant(s)

FANNON ET AL.

Examiner

Alix Elizabeth Echelmeyer

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 15-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12-10-03, 1-22-04
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 1-4 and 6-14, in the reply filed on July 12, 2006 is acknowledged.

### ***Drawings***

2. The drawings were received on August 15, 2006. These drawings are accepted by the examiner.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-4, 6-8 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montminy et al. (US Pre-Grant Publication 2004/0211668) in view of Fuglevand et al. (US Patent 6,030,718).

Montminy et al. teach the fabrication of a membrane electrode assembly including an anode, polymer electrolyte membrane (PEM), cathode, and flow field plates that can also serve as current collectors integrated by injection molding using a thermoplastic elastomer ([0091]-[0094]). In one embodiment, the material can be injected directly to a space within the flow field plates, but Montminy et al. also teach the use of mold plates as seen in Figure 2.

Regarding the catalyst coating and diffusion layer, it should be known to one having ordinary skill in the art that these components are inherent to a fuel cell and that it would be obvious to one having ordinary skill in the art to apply the layer to either of the components it would be touching in order to achieve the desired fuel cell structure.

As for claim 8, Montminy et al. also teach the use of welding to connect components ([0096]).

Montminy et al. fail to teach leads on the current collectors and the hot pressing step of claim 11.

Fuglevand et al. teach current collector plates having conductive members that extend beyond the outer frame of the plate. These conductive members are received in the outer wall of the fuel cell container for easier conduction of electrical energy generate by the fuel cell. Fuglevand et al. further teach the coating of a diffusion layer on the current collector plate for maintaining electrical contact (Figure 18; column 20 lines 39-67; column 21 lines 1-41). Fuglevand et al. further teach a hot pressing step prior to sealing the components of the fuel cell (column 17 lines 65-67; column 18 lines 1-6).

It would be advantageous to use the leads taught by Fuglevand et al. on the current collector plates of Montminy et al., as well as the diffusion layer of Fuglevand et al., in order to facilitate the conduction of the electricity produced by the fuel cell.

In this case, the current collector with leads is interpreted to be a lead frame with integrated current collector since the integrated part is a structure designed for giving support to the rest of the components of the fuel cell.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the current collector with leads as taught by Fuglevand et al. as well as the diffusion layer as the current collector of Montminy et al. in order to make the conduction of electricity produced by the stack more efficient.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montminy et al. in view of Fuglevand et al. as applied to claim 7 above, and further in view of Roche et al. (US Patent Number 5,097,104).

The teachings of Montminy et al. and Fuglevand et al. as discussed above are incorporated herein.

Montminy et al. in view of Fuglevand et al. fail to teach trimming excess material from the lead frame after forming the membrane electrode assembly.

Roche et al. teach the trimming of excess material from the current collector after the pressing operation to seal the components of the fuel cell. Trimming excess material is necessary in order to remove excess material (column 8 lines 16-38).

It would be desirable to trim excess material from the lead frame of Montminy et al. in view of Fuglevand et al. in order to remove excess material.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to trim excess material from the lead frame in order to remove unneeded material.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alix Elizabeth Echelmeyer whose telephone number is 571-272-1101. The examiner can normally be reached on Mon-Fri 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
PATRICK JOSEPH RYAN  
SUPERVISORY PATENT EXAMINER

Alix Elizabeth Echelmeyer  
Examiner  
Art Unit 1745

aee